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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of

Amendment of Part 1 of the	)	
Commission's Rules	)	WT Docket No. 97-82
Competitive Bidding Proceeding	)	

TO: Auctions and Industry Analysis Division
Wireless Telecommunications Bureau

COMMENTS

SouthEast Telephone Limited Partnership, Ltd. ("SouthEast"), by its attorneys, hereby submits its comments in the above-captioned proceeding in response to the Public Notice issued by the Wireless Telecommunications Bureau ("Bureau") on June 2, 1997.

I. INTRODUCTION

1. SouthEast Telephone, Ltd. ("SouthEast") is a Kentucky limited partnership and the holder of broadband PCS C block licenses ("C block licenses") for the following six BTAs: (1) Bowling Green-Glasgow, KY, (2) Madisonville, KY, (3) Owensboro, KY, (4) Paducah-Murray-Mayfield, KY, (5) Somerset, KY and (6) Williamson, WV-Pikeville, KY. SouthEast's net winning bids for these 6 markets totaled $12,287,250.00. On May 15, 1997 SouthEast made a 5% downpayment in the aggregate amount of $614,362.50. On September 24, 1997 SouthEast made an additional 5% downpayment of $614,362.50. On March 31, 1997, SouthEast filed a grace period request with the FCC requesting: (1) a six month grace period with respect to its interest-only payments to the FCC and (2) a restructuring of its payment schedule to amortize the suspended payments over the remaining term of the license. This grace period request was

mooted by the action of the Bureau suspending the deadline for broadband PCS C block installment payments.[1]

2. On June 2, 1997, the Bureau released a Public Notice seeking comment on three letters, an informal proposal and a Petition for Rulemaking, all of which make proposals regarding the installment payment obligations of broadband PCS block C licensees.[2] The Bureau also invited the submission of additional proposals addressing C and F block broadband PCS financing terms.[3]

II. GUTIERREZ LETTER

3. Several C and F block licensees jointly submitted a letter to the Bureau requesting that the payment frequency for C and F block licensees be modified from quarterly to annual installment payments.[4] SouthEast supports the proposal to permit C and F block licensees to make installment payments on an annual basis. Annual installment payments would provide licensees with additional flexibility to adjust their fund raising efforts to the volatility of the capital market, as well as help licensees to focus efforts on building the infrastructure of their systems. However, as discussed below, SouthEast does not believe that adoption of an annual installment payment rule is sufficient by itself to enable entrepreneur licensees to effectively compete with A and B block licensees.

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[1]See Order, In the Matter of Installment Payments for PCS Licensees, DA 97-649 (released March 31, 1997).

[2]Public Notice, Wireless Telecommunications Bureau Seeks Comment on Broadband PCS C and F Block Installment Payment Issues, DA97-679 (released June 2, 1997).

[3]Id.

[4]See Letter from Thomas Gutierrez, Esq., et. Al. To Michele C. Farquhar, Esq., Chief Wireless Telecommunications Bureau (March 13, 1997).

III. SAWICKI LETTER

4. MCI Telecommunications Corporation ("MCI") submitted a letter to the FCC requesting that the FCC permit all broadband PCS C block licensees to defer installment payments and accrue interest for the first five years of the license term. Interest payments would be made during years 6-10 of the license term and principal payments would be made during years 7-10. MCI further proposed that licensees, by individual waiver, be permitted to have a single investor own 50% of the non-control group equity (up to 37.5% of the to equity of the licensee).[5]

5. SouthEast supports MCI's proposal to defer installment payments for all C block licensees and would extend that proposal to all F block licensees. However, SouthEast suggests modifying this proposal to eliminate the accrual of interest during the first 5 years of the license term. Adoption of this proposal would conserve entrepreneur licensee resources and permit them to focus on buildout, marketing and operations. Instead of scrambling to meet installment obligations during the crucial early years of developing a business that competes with large, well financed companies (in some cases these companies are Fortune 100 world giants), a licensee can concentrate its efforts on providing serve to the public.

6. Deferring installment payments also partially equalizes the playing field by decreasing the present value of C block licensee installment obligations to a level closer to that paid by A and B block licensees. As discussed more fully below, SouthEast also proposes that the bids by C block licensees be modified on a present value basis to approximate the average per pop price paid by A and B block licensees.

[5]See Letter from Leonard S. Sawicki, Director, FCC Affairs, MCI Telecommunications Corporation to Mr. William F. Cation, Secretary, FCC (May 1, 1997).

7. SouthEast also supports MCI's recommendation that the ownership and attribution rules be modified to permit a single, non-control group investor to own up to 37.5% of a C block licensee's equity. This would make C block licensees more attractive as investments to institutional and strategic investors without affecting the core principle of the ownership and attribution rules, i.e., that small entrepreneurs control and own a significant amount of the entrepreneur entity. SouthEast agrees with MCI's suggestion that licensees seek this modification by individual waiver. SouthEast would further extend this change to F block licensees.

IV. BARKER LETTER

8. Fortunet Communications, L.P. ("Fortunet"), in a letter to the Secretary of the FCC, proposed that the FCC make the following changes to the terms and conditions of its C block licenses: (1) return the installment payments made by Fortunet in its C block licenses, putting Fortunet in the same position as those C block licensees who filed a grace period request or otherwise did not make the first installment payments; (2) modify the interest rate on Fortunet's installment payments from 7.00% to 6.53%, thus reflecting what Fortunet contends was the rate for 10-year Treasury obligations on the date of license grant; (3) suspend interest payments on Fortunet's installment obligations for 5 years and extend the repayment term from 10 years to 20 years; (4) modify the minimum equity requirement for the C block control group by adopting rules comparable to those used by the FCC for Wireless Telecommunications Services licenses held by small businesses, which rules do not require the small business to hold specific percentages of equity, but only that the small business principals maintain de facto and de jure control of the entity; (5) permit Fortunet, within 5 years of license grant, to transfer a license to a non-entrepreneur, provided that: (i) it cannot find an entrepreneurial group to acquire the license

on comparable terms, (ii) the balance owed on the license is paid in full at time of transfer, and (iii) 50% of the bidding credit is paid as an unjust enrichment penalty (the other half of the bidding credit would be waived by the FCC); and (6) permit Fortunet to sell greater than 25% of its equity to foreign investors (while not violating control group rules).[6]

9. SouthEast supports Fortunet's request for a refund of installments made prior to the FCC's Order suspending C block licensee installment payments. Further, to the extent that Fortunet is correct in its calculations, SouthEast supports Fortunet's request to adjust the interest rate on its installment obligations from 7.00% to 6.51%. The refund, interest rate adjustment and the other requests made by Fortunet should be extended, as applicable, to all C block licensees. SouthEast also supports Fortunet's request to suspend installment payments for 5 years from date of license grant and to extend the repayment term to 20 years. If the Bureau adjusts the per pop price paid by C block licensees, then the repayment term should be 10 years, as suggested by MCI.

10. In concept SouthEast supports Fortunet's request that the minimum equity rules be modified. However, SouthEast suggests that it would be more appropriate to modify the rule by reducing the minimum equity held by the designated entity control group from 15% to 10%. Maintaining a bright line standard will uphold the integrity of the C block by ensuring that control groups maintain a significant level of equity ownership and not in effect become managers of the licensees who control operations but have little economic stake in the licensee.

11. SouthEast opposes Fortunet's request that it be permitted, under specified conditions,

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[6]See Letter from James H. Barker and Michael S. Wroblewski, Counsel to Fortunet Communications, L.P. to Mr. William F. Cation, Secretary, FCC (May 9, 1997).

to transfer a license to a non-entrepreneur within the first five years after license grant. This change would have the effect of subverting the intent of the C block by drawing capital to licensees willing to cash out early and making capital formation more difficult for those entrepreneurs who want to build a long term business.

12. SouthEast supports the concept of foreign ownership in block C licensees only to the minimum extent required by the WTO Agreement.

V. COOK INLET PETITION

13. Cook Inlet Region, Inc. ("Cook Inlet"), a C and F block licensee, filed a Petition for Rulemaking with the FCC requesting that the FCC initiate a rulemaking to fully address the procedures regarding the administration and disposition of the installment payment obligations of C and F block licensees. In general, Cook Inlet opposes wholesale relief to C and F block licensees and believes that the record developed in the rulemaking will support the strict enforcement of existing rules. Cook Inlet further requested that installment payment obligations be immediately restored while the rulemaking is pending.[7]

14. SouthEast agrees with Cook Inlet that the issues raised by the proposals described herein are important and complicated enough to merit a rulemaking. However, a rulemaking is a time consuming process, which is a precious commodity to C block licensees. Therefore, if the Bureau elects to pursue a rulemaking on one or more of the proposals, the SouthEast suggests that while the rulemaking is pending the Bureau expeditiously process waivers submitted by C block licensees.

[7] See Cook Inlet Region, Inc. Petition for Rulemaking, filed May 7, 1997 (RM-9093).

15. While the rulemaking is pending the installment payments should be suspended so that licensees can concentrate on building a business. To the extent that any form of installment payment relief is granted, such relief will be meaningless to licensees if granted retroactively.

VI. GENERAL WIRELESS, INC. INFORMAL PROPOSAL

16. General Wireless, Inc. ("GWI") submitted an informal proposal to the FCC recommending that: (1) C block installment debt be reduced from the average C block price of $40 per pop to the average A and B block price of $15 per pop; (2) all installment payments be deferred for 5 years, with principal payments back loaded during the last years of the license term; (3) C block licensee be required to meet a construction benchmark of service to 1/3 of licensed population within 3 years after license grant; (4) C block licensees be permitted to have foreign ownership of up to 90% of the licensee's equity; (5) a single non-control group investor be permitted to own up to 49% of the licensee's equity and (6) the designated entity control group ownership requirement be reduced from 15% to 10% of the licensee's equity.[8]

17. SouthEast concurs that the per pop price paid by C block licensees should generally be reduced to approximate the average amount paid per pop by A and B block licensees. The adjustment to the per pop price paid by C block licensees should be made by a percentage reduction which is applied to all licensees who participated in the original auction, rather than a reduction to a flat per pop price to be paid by all licensees.[9] The percentage reduction should also take into account, by present value analysis, the changes to the term and timing of installment

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[8] See General Wireless, Inc. Informal Proposal (May 6, 1997).

[9] For example, if the percentage chosen is 50%, then each licensee would receive a 50% reduction in the price paid for each license.

payments that is finally adopted.

18. As stated above, SouthEast supports the proposals that installment payments be deferred for 5 years, that principal payments be back loaded to the end of the installment payment term, that foreign ownership be permitted to the minimum extent required by the WTO Agreement and that the minimum designated control group ownership be reduced from 15% to 10%. SouthEast believes that adoption of these proposals, along with a reduction in the per pop price that C block licensees pay for their licensees will enable these licensees to buildout their system, effectively compete with A and B block licensees and provide needed service to the public. Therefore, in exchange for these changes to the C block rules, SouthEast believes that C block licenses should accept a new construction benchmark requiring licensees to provide service to 1/3 of the population in each licensed market within 3 years after license grant.

VII. FCC SUBORDINATION OF LICENSE PAYMENT OBLIGATION TO THIRD PARTY LENDER IN POCKET COMMUNICATIONS, INC. BANKRUPTCY

19. In dealing with the bankruptcy of Pocket Communications, Inc. ("Pocket"), the FCC has agreed to subordinate their debt to that of a third party lender, thereby enabling Pocket to continue operations. In order to avoid a rash of bankruptcies from other C block licensees who require similar relief in order to avoid liquidation of their assets, the FCC should issue a Public Notice stating that it will consider subordination requests by other C block licensees. In considering whether to grant such requests, the FCC should take into account the amount of debt to which subordination is requested, the ratio of the third party debt to the FCC debt and the amount of time for which subordination is requested.

Respectfully submitted,

SouthEast Telephone Limited
Partnership, Ltd.

By: ______________________
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CERTIFICATE OF SERVICE

I, ______________, Katrina Blackwell, an employee in Myers Keller Communications Law Group, do hereby certify that on this 23rd day of June, 1997, two copies of the foregoing "**COMMENTS**" were hand delivered to the following:

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Attn: Sande Taxali

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